

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

CHARLOTTE CHARLES, *et al.*,

Plaintiffs,

v.

ANNE SACOOLAS, *et al.*,

Defendants.

Civil Case No. 1:20-cv-1052

**UNDER SEAL**

**MEMORANDUM IN SUPPORT OF CONSENT**  
**MOTION FOR AN INTERIM ORDER DISTRIBUTING**  
**SETTLEMENT FUNDS NOT IN DISPUTE**

There is no dispute over [REDACTED] owed to Plaintiffs in this case. The ongoing disagreement over legal fees does not reach these funds. Even if the Court grants both firms the full amount of contingency fees and expenses claimed, the Plaintiffs will still be entitled to [REDACTED]. Plaintiffs are in urgent need of these funds and ask the Court to order that the funds be disbursed to the Plaintiffs forthwith. Defendants, Plaintiffs' current counsel Levy Firestone Muse LLP, and Plaintiffs' prior counsel, Cohen Milstein Sellers & Toll PLLC ("CMST"), all consent to this motion.

On September 15, 2021, the Parties to this case signed a [REDACTED] agreement resolving this case ("Agreement"). Under the terms of the Agreement, Defendants and their insurance company, USAA Ltd., were to pay the sum of [REDACTED] to counsel for Plaintiffs within thirty days of the Agreement, *i.e.*, by October 15, 2021. More than two months have passed since the October 15 deadline without any payment by Defendants, and Plaintiffs have yet to see a single dollar of the promised compensation.

USAA has chosen to delay payment of the funds, because of the outstanding controversy over legal fees. The Court is scheduled to hear arguments on motions arising out of this controversy on January 12, 2022.

CMST has represented to the Court that it agreed to a contingency fee of 1/3 of the recovery (after subtracting litigation costs). ECF No. 80, at 7. Thus, the highest amount reasonably and ethically claimed by CMST equals 1/3 of the recovery (after subtracting litigation costs) plus litigation costs. Plaintiffs have calculated that number to be [REDACTED]. Pursuant to Plaintiffs' agreement with counsel, Levy Firestone Muse claims it is entitled to 20% of the settlement amount (irrespective on any claim for fees by CMST) plus expenses. That amount equals [REDACTED].

Therefore, there is no dispute with respect to at least [REDACTED] of the settlement amount and no reason to further delay payment of that amount to the Plaintiffs, who are in financial need and who agreed to this settlement in the good faith belief that the funds would be paid as promised and certainly not withheld without good cause.

### **Conclusion**

Consistent with the Agreement and equity, Plaintiffs respectfully ask this Court to grant Plaintiffs' Motion for an Interim Order Requiring Distribution of Settlement Funds Not in Dispute, and order disbursal of [REDACTED] to Plaintiffs forthwith.

On December 16, 2021, USAA petitioned the Court to order the Clerk to accept in the Court Registry the full amount of the settlement [REDACTED]. It is unclear whether the Court has entered such an order (On December 17, 2021, the Court entered an order under seal (ECF No. 138) and mailed copies of the order to the parties that have not yet arrived in the mail.). If the settlement funds are currently in the Registry, Plaintiffs ask the Court to order the Clerk to remit the undisputed funds ([REDACTED]) to Plaintiffs. If the settlement funds are not yet deposited

with the Registry, Plaintiffs ask the Court to order USAA to remit the undisputed funds  
[REDACTED] to Plaintiffs.<sup>1</sup>

December 21, 2021

Respectfully submitted

By: /s/ Jay Rohit Nanavati  
Jay Rohit Nanavati  
Kostelanetz & Fink LLP  
601 New Jersey Avenue NW  
Suite 620  
Washington, DC 20001  
202-875-8000  
jnanavati@kflaw.com

Robert F. Muse  
Daren H. Firestone  
Levy Firestone Muse LLP  
1701 K Street, NW  
Suite 350  
Washington, DC 20006  
202-845-3215  
rmuse@levyfirestone.com  
dhf@levyfirestone.com  
*Counsel for Plaintiffs*

---

<sup>1</sup> On November 12, 2021, Plaintiffs filed a motion seeking prejudgment interest on the undisputed portion of the settlement funds (ECF No. 114). On November 17, 2021, Defendants filed an opposition to that motion (ECF No. 117). The Court has not yet decided the Motion for Prejudgment Interest. Plaintiffs continue to seek prejudgment interest on the settlement funds in this matter and recognize that the Court intends to address that motion at the hearing scheduled for January 12, 2022.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I electronically filed the foregoing using ECF, which serves a copy on counsel of record.

/s/ Jay Rohit Nanavati  
Jay Rohit Nanavati